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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/985,514	12/05/1997	DAVID I. POISNER	042390.P3919	3690

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EXAMINER

KANG, PAUL H

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 04/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/985,514

Applicant(s)

POISNER, DAVID I.

Examiner

Paul H Kang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 10, 11, 13, 17, 18, 20, 21 and 23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1-4, 6-8, 10, 11, 13, 17, 18, 20, 21 and 23 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 1997 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. This application has been reviewed. Original claims 5, 9, 12, 14-16, 19, 22 and 24-25 have been cancelled. Claims 1-4, 6-8, 10-11, 13, 17-18, 20-21 and 23 are pending.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 10-11, 13, 17-18, 20-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatman et al., US Pat. No. 5,892,690, in view of Colton et al., US Pat. No. 6,239,722.

3. As to claims 1, 6, 10 and 20, Boatman discloses a system, method and computer readable medium comprising:

(a) collecting usage information from the one or more devices by a computer coupled to the one or more devices (Boatman, BACKGROUND, SUMMARY, Figs 1-2 and col. 2, lines 1-49, data acquisition system, or computer, is used to monitor air or water quality).

(b) storing the usage information in a memory associated with the computer (See Boatman, col. 2, lines 1-49; site controllers store sensor data in data storage devices for the data acquisition system).

(c) periodically accessing a remote database by the computer, the remote database containing information specific to the one or more devices (Boatman, col. 2, lines 50-62, the data

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acquisition system systematically communicates with remote databases), the computer accessing the remote database to:

(d) transmit the usage information to the remote database (Boatman, col. 2, line 50 - col. 3 line 6, usage information stored by data acquisition systems is transmitted to remote databases);

(e) receive the information specific to the one or more devices from the remote database (Boatman, col. 2, line 50 - col. 3, line 6, remote databases systematically collect data from data acquisition systems for analysis); and

(f) transmitting a control signal from the computer to the one or more devices, the control signal being generated by the computer based on the information received from the remote database (Boatman, col. 4, lines 5-33, data collected by the remote databases is used to control data collection operations at the sensor devices. Additionally, remote databases control voltage-VOC measurement conversions at the sensor devices which are used for calibration procedures, Boatman, col. 5, lines 37-50. In the environmental control system, sensor devices transmit data to a controller storage device programmed to systematically collect the sensor data. The controller systematically transmits sensor data in intervals to a remote database, which receives the data and controls further actions at the sensors as a result of the sensor data such as measurement calibrations based on manufacture data, Boatman, col. 2, line 36 - col. 3, line 6, col. 5, lines 19-50 and Fig 4).

However, Boatman does not explicitly teach that the devices are smart devices and wherein the usage information comprises statistical data regarding the specific use of the one of more smart devices and wherein the control signal functionally operates the one or more smart devices.

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In the same field of endeavor, Colton teaches an environment monitor and control system wherein usage information from smart devices are transmitted to remote databases. Further, Colton teaches control signals functionally operates the function of the smart devices (Control signals instruct devices to automatically transmit data or to control smart devices such as smart phones, smart thermostats and home monitoring functions, Colton, col. 4, line 66 – col. 5, line 62 and col. 6, line 54 – col. 7, line 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the smart device usage information including statistical information and control signals, as taught by Colton, into the system of Boatman for the purpose of increasing efficiency of the system.

4. As to claims 7, 17 and 21, Boatman-Colton further disclose the method of claim 1, wherein the one or more devices include at least one home appliance and wherein the common environment is a house (Boatman, BACKGROUND. Casinos and nursing homes employ air and water quality monitoring devices in order to establish and maintain pollution-free environments for people and entertainment equipment. Colton, col. 6, line 54 – col. 7, line 18).

5. As to claims 8 and 18, Boatman-Colton further disclose the method of claim 1, wherein the one or more devices comprise manufacturing equipment and wherein the common environment is a manufacturing facility (Boatman, BACKGROUND. Manufacturing facilities employ air and water quality monitoring devices in order to establish and maintain pollution-free environments for people and equipment).

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6. As to claims, 2-4, 11-13 and 23, Boatman-Colton teach a system wherein the usage information collected from the device comprises device operation and maintenance data comprising: (a) an average length of time the one or more devices has been in operation over a period of time; (b) a number of occasions the one or more device has been in operation over the period of time; (c) a number of times maintenance was performed on the one or more devices over the period of time; and (d) types of maintenance operations that were performed on the one or more devices over the period of time (Boatman, col. 3, lines 7-34, col. 4 lines 5-14 and Colton, Colton, col. 4, line 66 – col. 5, line 62 and col. 6, line 54 – col. 7, line 18)

Supplemental Rejection

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Launey et al., US Pat. No. 5,086,385, in view of Ardalan et al., US Pat. No. 6,239,722.

8. As to claims 1, 10 and 20, Launey teaches the invention substantially as claimed. Launey teaches a system, method and computer readable medium comprising:

(a) collecting usage information from the one or more smart devices in a common environment by a computer coupled to the one or more smart devices (Launey, col. 1, line 5 – col. 4, line 64).

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(b) storing the usage information in a memory associated with the computer (Launey, col. 1, line 5 – col. 4, line 64).

(c) periodically accessing a remote database by the computer, the remote database containing information specific to the one or more smart devices, the computer accessing the remote database to retrieve information specific to the one or more smart devices further transmitting a control signal from the computer to the one or more devices, the control signal being generated by the computer based on the information received from the remote database (Launey, col. 1, line 5 – col. 4, line 64 and col. 20, line 64 – col. 21, line 53).

However, Launey does not explicitly teach that the devices are smart devices and wherein the usage information comprises statistical data regarding the specific use of the one of more smart devices and wherein the control signal functionally operates the one or more smart devices and the computer accessing the remote database to transmit the usage information to the remote database.

In the same field of endeavor, Adalan teaches a system which transmits statistical device usage information from a computer local to the metering devices to a remote server (Adalan, Abstract, Summary of the Invention and col. 45, line 67 – col. 48, line 63 and col. 50, line 20 – col. 52, line 43).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the remote data analysis and controlling features, as taught by Adalan, into the system of Launey for the purpose of implementing distributed control and maintenance of the devices.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 6-8, 10-11, 13, 17-18, 20-21 and 23 have been considered but are moot in view of the new ground(s) of rejection. The applicant argued in substance that the prior art of record does not teach the limitation a smart device and usage information comprises statistical data regarding the specific use of the smart device. The new grounds of rejection teaches this feature.

The applicant also argues that the prior art of record does not teach the control signal functionally operates the one or more smart devices in the way intended by the claim language. See Response of February 11, 2002 (paper no. 13), at pages 9, 10 and 12. Applicant argues limitations which are not essential to the scope of the prior art. The definiteness of the language employed must be analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. Insofar, the claims have been given the broadest reasonable interpretation consistent with the specification and the prior art during the examination of this patent application since the applicant may then amend his claims, the thought being to reduce the possibility that after a patent is granted, the claims may be interpreted as giving broader coverage than is justified. Therefore, applicant's arguments regarding specific control functions as presented in the Response are not given weight as to the patentability of the claimed subject matter.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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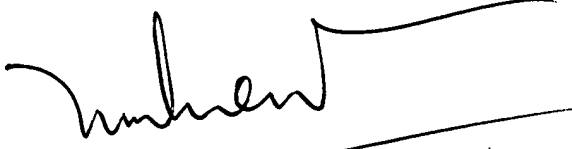
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H Kang whose telephone number is (703) 308-6123. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-9731 for regular communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Paul H Kang
Examiner
Art Unit 2152

April 20, 2002


LE HIEN LUU
PRIMARY EXAMINER